11-29-1982

The Opinion – Volume 25, No. 4, November 1982

William Mitchell College of Law

The Opinion

Published by the Student Bar Association of William Mitchell College of Law

Nov. 29, 1982 — Volume 25, Number 4

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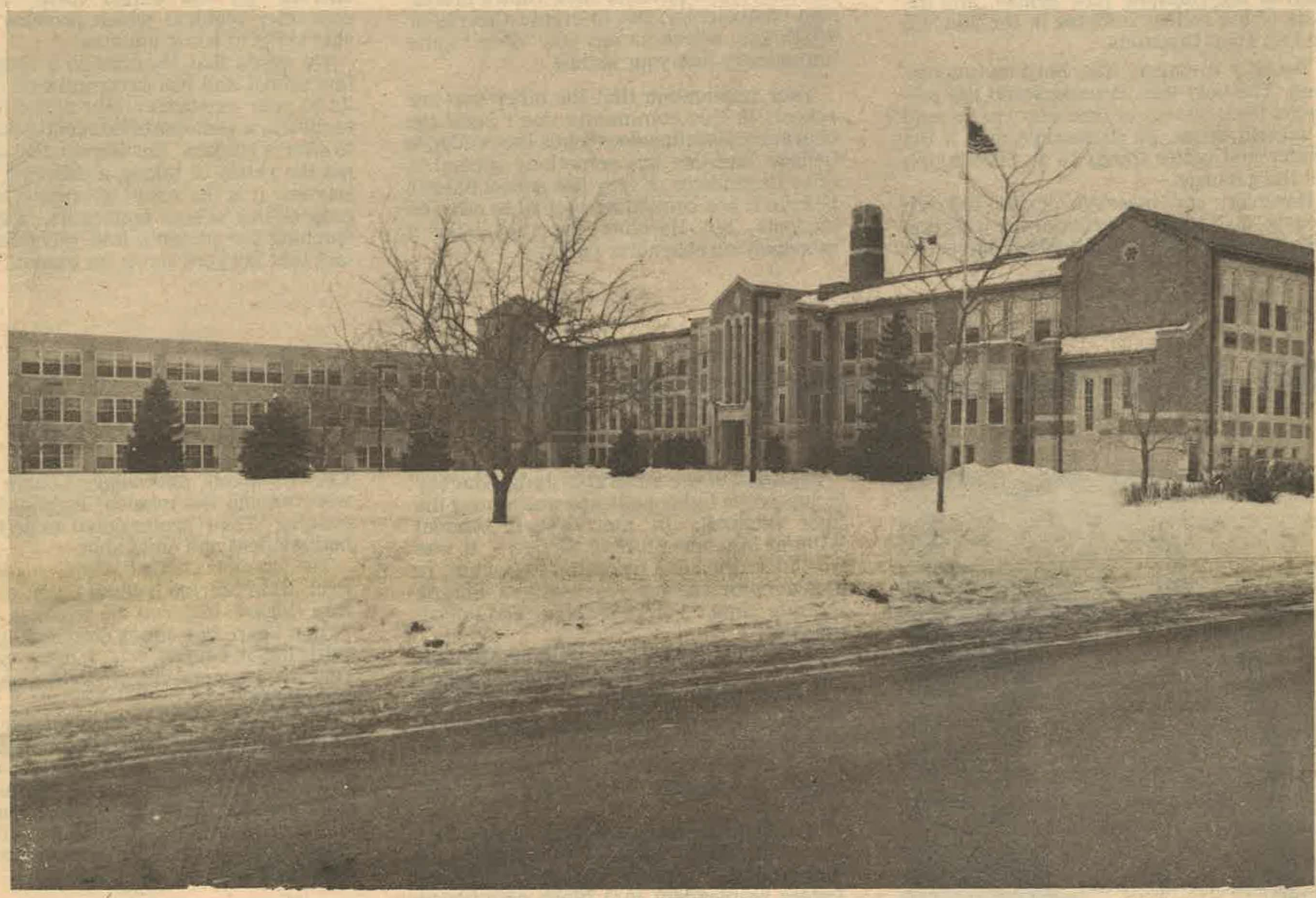
Photo by Jeanne Anderson



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Editorial

Young's discourse a cheap shot

Okay. The words were big, the diatribe demeaning and the philosophy muddled. But just what information did you mean to convey to the community Mr. Young?

We are referring to Stephen B. Young, dean of the Hamline Law School, and his state of the college address in the Jan. 13, 1983 St. Paul Dispatch.

Young's message was hard to understand. The only way to understand the pat-on-the-back history of Hamline was to read it several times, an impossible task if the reader had better things to do, like taking out the garbage.

However, one message comes through clearly in Young's discourse on tradition and history: William Mitchell College of Law is something less than a law school -- in his words it's a "[N]ight bar preparation" school. We think that's a cheap shot.

After all Mr. Young, the purpose of a law school, any law school, is to educate potential lawyers to practice their future profession competently, not to create Ciceros or Winthrops, whose names you "drop" quite immodestly into your article.

Your implication that the other two law schools in this community don't build the character Hamline does leads the reader to believe Hamline has something special to offer its students. Every law school likes to believe it has something special to offer its students, but Hamline does not have a monopoly on character building.

Our law school provides a special service to people who cannot attend day law schools like Hamline because of other commitments (work, family obligations). Working full-time and attending "night prep" courses, as you called them, are also character builders which produce leadership skills in our graduates.

We agree that Hamline is a respectable law school and has accomplished much in its 10 year existence; your school has fine facilities, a well-qualified faculty and much to offer a student. But Hamline's success is not the result of taking a different road to success, it is the result of tapping the huge crop of law school applicants, adequately teaching its students and recognizing the fact that lawyers serve the public.

All Star Review worth the price

Photo by Phil Goldman

"Super Hachey" stuns students

The sight of the venerable Judge Hachey in Superman tights and cape was among the finer moments in the "Fourth Annual William Mitchell All Star Review." It was worth the price of a ticket to see Hachey, in a duet with second year student Sharon Fullmer, sing "You're Never to Old to Fall in Love."

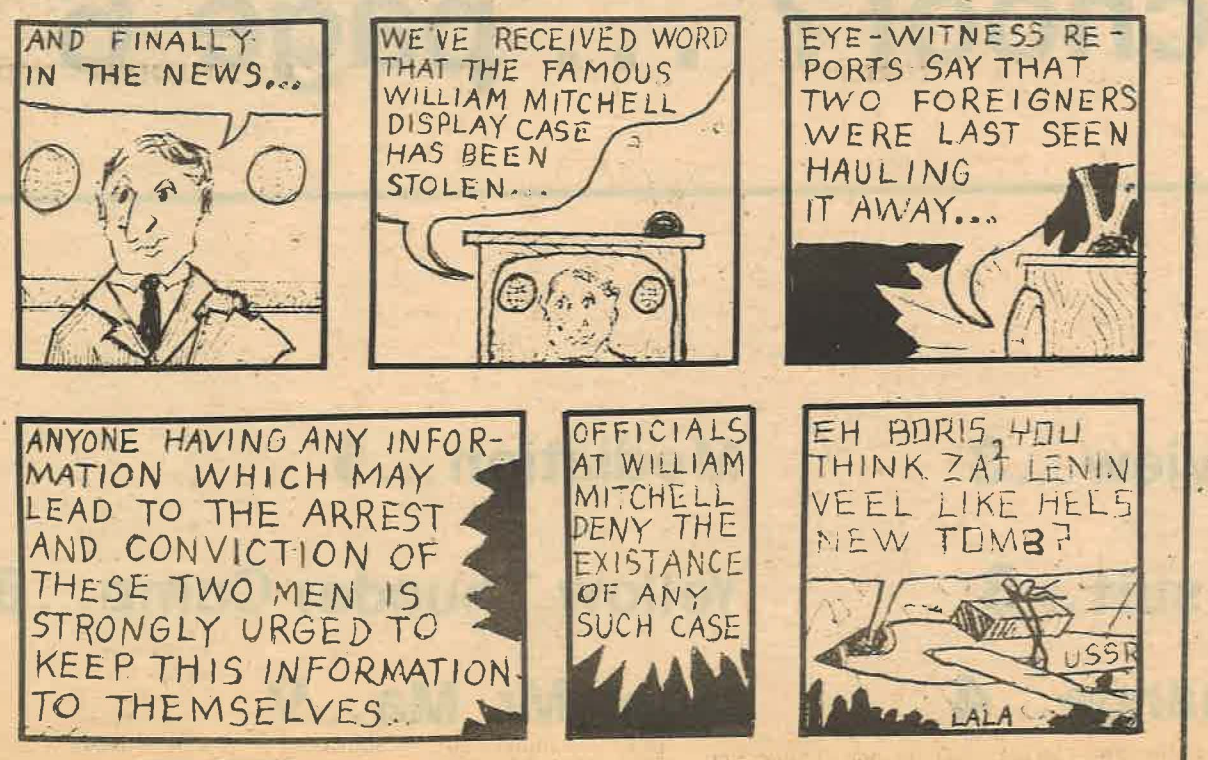
The benefit, held for the William Mitchell Child Care Center, ran the gamut of entertainment. Efraim Cohen, shades of Peter Yarrow, combined wit, guitar and kazoo in an enjoyable performance. When coupled with David Haynes on the banjo, their "foggy mountain breakdown" was spectacular.

The three deans performed, as only they can, with their rendition of "Tarnac the Magnificent." Tarnac, played by Dean Peters resplendent in a black commencement robe with purple trim, gave answers to unknown questions with astounding accuracy.

Jazz pianist Larry McDonough, pianist Lala Rybakoff, and singer Connie Crowell were among the musical highlights of the evening. Their professional expertise was both evident and enjoyable.

The caption contest photo, a picture of Prof. Paul Marino holding a gun on Humpfrey Bogart, inspired the winning caption: "I don't care how much emotional pain and suffering it caused you, I don't care that your bangs were cut off by a Casablanca ceiling fan".

The evening ended with a presentation to Child Care Center Director Bob Holtz of a mock check for $500, donated in the name of Prof. Efraim Cohen in recognition of his work with the show. The closing number, a stunning rendition of the Billie Holiday hit "God Bless the Child," was sung by student Connie Crowell.



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STATEMENT OF POLICY

The William Mitchell Opinion is published by the Student Bar Association of the William Mitchell College of law for the purpose of educating and informing Mitchell students and alumni of current issues and affairs of law and the law school. In furtherance of that purpose, the Opinion will present the views of any student, faculty member, alumni, or the administration. Because of space limitations in a tabloid newspaper, and because the Opinion strives for factual and accurate and stylistically uniform copy, all contributions are subject to editorial review and possible abridgement, although every effort is made to maintain a writer's original style.

The Opinion will endeavor to consider fully and thoughtfully all material to determine its relevance and appropriateness before publication. Such consideration will be made with the assumption that freedom of the press within the law school is no less a fundamental right than outside the law school, and in view of the Opinion's recognized responsibility to the members of the student bar, practicing attorneys, and faculty and administration of the law school. The opinions expressed in this publication are those of its editors and do not reflect the opinions of William Mitchell College of Law, its employees, or Board of Trustees.

Volume 25, Number 4

Top of the News

Perpich forecasts economic recovery

By Margie Bodas

Newly seated Gov. Rudy Perpich claims he's the best thing that could happen for William Mitchell students.

"No, I'm serious," Perpich said in response to a somewhat patronizing grin.

"Jobs are going to be important to students coming out of William Mitchell. Industry, high-tech, energy, will all be important in putting the economy back on track. We are going to lay out the big welcome mat to create jobs," Perpich said. "Students are concerned about those things, too. Prospective lawyers and young practicing lawyers alike need a healthy economic climate to get a start in."

Perpich says his plan for Minnesota will provide for that sound economic environment although he admits that economic styles must change.

Perpich's gubernatorial priorities include: promoting tourism; selling Minnesota products overseas; promoting and expanding the state's medical facilities and boosting state industries such as wood products, high technology, film and graphic arts, and agricultural-products processing.

Photo by Margie Bodas

Perpich will appoint new appellate judges

"We all have to create a positive image of Minnesota," Perpich said. "Then people and industry will invest in our state. And we can regain the quality of life we've known in the past.

Perpich, the state's 36th governor, set a number of firsts in his Nov. 2 election victory over IR candidate Wheelock Whitney: the first gubernatorial candidate in state history to receive more than 900,000 votes; the first governor to regain the office after having once lost it, making Perpich both the 34th and 36th chief executive of Minnesota; the first governor in state history to bring a woman lieutenant governor into office with him; the first DFLer to be elected governor without the endorsement of his party's state convention; and, the first Iron Ranger and first Catholic to be elected governor of Minnesota.

Branded a maverick by many, including the Wall Street Journal, the Chicago Tribune, and the New York Times, Perpich has said he's willing to make this term his last if that's what it takes to bring the economic upswing he seeks.

One of the issues that has already stirred controversy for the Perpich administration is Perpich's judicial selection process. Former Gov. Al Quie had set up a merit system, hailed by many segments of the Minnesota State Bar Association as a fair process for producing high quality judges.

Perpich has appointed an 11-member commission, headed by former State Rep. Mike Sieben, to make recommendations for judicial appointments. William Mitchell student, Steven D. Lastovich serves on that commission. Perpich said the membership of this commission is designed to bring a broad cross-section of the Minnesota population into the judicial selection process. The permanent commission includes five lawyers, five non-lawyers and a district court judge.

"My approach is not the same as Gov. Quie's," Perpich admitted. "I don't want to consider only white males that are about 50 years old and able to live off their investments. Opportunity should be given to others. There are many bright young people. We need minority representation and women on the bench. I think that this is a better approach."

Perpich will also have the task of appointing the new appellate court judges. That process will not take place until later this year, Sieben said, because of the budget agenda.

MPIRG challenges draft enforcement law

By Jeanne Anderson

A new federal law requiring draft age males to prove they have registered before receiving financial aid went into effect last month. The new law is the subject of three suits challenging the constitutionality of the law.

Minnesota Public Interest Research Group (MPIRG) filed the first suit which was dismissed recently by U.S. District Judge Donald Alsop who ruled the group lacked associational standing to sue. MPIRG has appealed that decision and filed a second suit on the same constitutional issues, on behalf of three unnamed members of the group. The third suit was filed by the Minnesota Civil Liberties Union.

Fourth year student Larry McDonough, MPIRG state chairman said that the group is challenging the law on its face. "There is nothing to be gained by waiting until some students are injured by the law, but there will be significant damage if people have to forego financial aid or go through the process of proving they are registered," he said.

MPIRG staff attorney Dan Lass said that there are several problems with the new law. He said, "The government presumes that everyone is guilty until they prove their innocence." Failure to register for the draft constitutes a felony which is punishable by 5 years in prison or $10,000 or both.

Lass said that if this law is allowed to stand it could have serious repercussions. Other federal agencies would be allowed to gather and transfer information unrelated to the agencies activities. He said that the law also violated the Privacy Act of 1974 which restricts government agencies from collecting unnecessary information. Lass stated that, the Department of Education is collecting information unrelated to its purpose and then giving it to the Selective Service System.

McDonough stressed that the issue is whether this is a constitutional way to enforce a law. "This is not a draft resistance movement," he said. "We're supporting constitutional rights, not illegal draft evasion."

The constitutional issues are a veritable gold mine for law students. Among them, Lass said, is the "blatant denial of due process." The due process argument is merged into the groups' claim that the new law is a bill of attainder, prohibited by Article I, Section Nine of the U.S. Constitution. Lass said that this is MPIRG's best argument, and that, "the people in the Department of Education agree that this will be a difficult argument to beat."

Another problem with the law, according to senior staff attorney Gail Suchman, is self incrimination. "Any time you provide information to the government which could lead to your conviction you are incriminating yourself." Suchman explained that the law requires all eligible males to sign a statement saying they have complied with the selective service registration. "By signing, if you make a mistake and thought you complied you can still be convicted," she said. "The burden of proof should be on the government." If you refuse to sign you lose federal financial aid. Suchman contended that the Department of Education could look up prior records to find out who has stopped using the program. "So by not signing you may incriminate yourself as well," she said.

The law is overbroad on its face, McDonough said, because it affects those who have already registered and even if you register late for the draft you can be convicted.

MPIRG is also claiming several equal protection violations. In addition, Suchman cites Title IX of the Education Act which says that no university can discriminate of the basis of sex. Since the draft only applies to males it violates both Title IX and the equal protection clause. She said that the law also discriminates on the basis of age and would fail the rational basis test. An MPRIG study done by staff economist Brett Smith shows that blacks and other minorities would be disproportionately affected by the law because of their greater dependence on financial aid. Lass said that the highest social impact of the law is wealth discrimination.

MPRIG's future access to federal court litigation may be imperiled, according to McDonough because of Judge Alsop's ruling on the first lawsuit. Two of the issues on appeal are whether or not MPRIG's actions are germane to the purpose of the group and whether MPRIG's leadership can speak for its whole membership.

The suit has been the subject of national media attention including the Washington Post, CBS Evening News and Good Morning America.

Larry McDonough

Dan Lass

Gail Suchman

Photos by Jeanne Anderson

Letter

To the Editor:

My name is Nathan Perry. I am presently an inmate at Denel Vocational Institution. I have a problem it is very lonely in here and I was wondering if you would please place my ad in your campus newspaper, or on your bulletin board? Your help is greatly appreciated! Thank you! Sincerely, Nathan Perry.

My Ad: I am a 28 yr. old Black Male serving time at D.V.I. I have a few yrs. left to go and would like someone to correspond with. All letters will be answered!

My name and address:
Nathan Perry - C51620
D.V.I P.O. Box 600 - H.Wing 213
Tracy, Calif. 95376.

Status of Bankruptcy Court still undecided

By Beth Culp

The status of Federal Bankruptcy Courts remains unknown and undecided in the wake of a ruling by the U.S. Supreme Court that the broad jurisdictional powers granted to the bankruptcy courts by the 1978 Bankruptcy Reform Act exceeded constitutional limits. The amendments were intended to allow consolidation of suits "arising in or related to Title XI proceedings." Under this provision bankruptcy judges could extend their jurisdiction to claims involving issues outside of bankruptcy laws.

According to Adjunct Professor William Kampf, the change was motivated by the desire of Congress to eliminate jurisdictional litigation which was pervasive under the old system, where jurisdiction was vested in the district courts and the bankruptcy judges served as referees.

"The conceptual framework in bankruptcy court is different," Kampf stated. "Rather than simply looking at a single broken promise, the bankruptcy court must look at hundreds of broken promises and weigh one against the other. Since it is the bankruptcy judge who appoints the Trustee in Bankruptcy, and because it is the Trustee against whom a defendant must litigate, defendants felt it was better to have their cases heard elsewhere. As a result the bulk of the case law under the old Bankruptcy Act was jurisdictional."

Congress spent more than nine years drafting the Bankruptcy Reform Act and one of their primary goals was to resolve these jurisdictional issues. The bill proposed by the House recognized that in order to grant broad jurisdiction to bankruptcy judges it would need to give them the life time tenure and protection against diminution of salary required by Article III for federal judges. However, the Senate, operating under the advice of the Judicial Conference, and reluctant to dilute the power of the District Court judges by adding an additional 220 bankruptcy judges to their ranks, disagreed.

The result of this legislative impasse was an uneasy compromise proposed by the House-Senate Conference Committee which Kampf describes as embodying a "metaphysical transformation."

"The Conference Committee recommended that a new bankruptcy court be created as an adjunct to the district court; in this way they thought that jurisdiction could be extended from the District Courts without granting the judges of the bankruptcy courts lifetime tenure," Kampf explained.

In 1982 the constitutionality of this compromise was tested in a Minnesota bankruptcy court when Northern Pipeline Construction Company filed a petition for reorganization under Title XI. After the proceedings were underway, Northern filed a suit in bankruptcy court against Marathon Pipeline Company for breach of contract and warranty, misrepresentation, coercion and duress. Marathon moved to dismiss the suit on the grounds that the Bankruptcy Act unconstitutionally granted Article III powers to judges who lacked the required protections. Bankruptcy Judge John Connelly rejected this argument and refused to dismiss the action. On appeal Federal District Court Judge Miles Lord agreed with Marathon that the conferral of jurisdiction over matters which essentially involved state law issues was unconstitutional. Lord's ruling was appealed directly to the Supreme Court where it was affirmed in June of last year.

Photo by Elliot Herland

Prof. Kampf said Congress may have to give bankruptcy judges lifetime tenure.

The plurality opinion, written by Justice Brennan, held that the Bankruptcy Reform Act of 1978 carried the possibility of an "unwarranted encroachment upon the judicial power of the United States reserved by the Constitution for Article III courts." Because the Bankruptcy Court judges were appointed for limited terms and subject to removal and fluctuating salaries, it was obvious to the plurality that they were not Article III judges and could not exercise the powers of the federal judiciary.

In his concurring opinion Justice Rehnquist stated that Congress was free to create separate courts with pure bankruptcy jurisdiction under its Article I powers, but that it could not grant such broad jurisdictional powers without the commensurate Article III protections.

To protect those who had relied on the jurisdiction of the bankruptcy courts since the enactment of the Bankruptcy Reform Act, and to allow Congress time to redraft the legislation, the Court made its decision prospective and stayed entry of the judgment until October 4, 1982.

According to Kampf, in July the House reintroduced its version of the reform legislation, granting lifetime tenure and salary protection to the bankruptcy judges. However, Senators Dole and Thurmond seized the opportunity to try to gain approval of their Senate Bill 2000, which would make a number of changes in the bankruptcy law, essentially eliminating the "Fresh Start Doctrine", which allows a person to emerge from the bankruptcy proceedings with a clean financial state. A compromise measure which combined the House and Senate proposals, was scheduled for a vote prior to the October recess, but was killed by a filibuster.

Because the Congress had seemed so close to settling the matter the Court was persuaded to grant another stay until December 24, but at the expiration of that deadline the Court refused a further extension and a certified copy of the judgment was sent to Lord's court.

As a result the bankruptcy courts have been left with uncertain jurisdiction and a mandate to process more than 300,000 cases each year. In a move to keep the courts functioning, every federal district court in the country has passed emergency orders which permit the district court judges to take jurisdiction over bankruptcy matters and refer them back to the bankruptcy judges.

The emergency rules were premised on the assumption that since the Supreme Court had found the expanded interim jurisdiction provided for in the Bankruptcy Reform Act unconstitional, that the old standard would once again become effective, and bankruptcy cases would therefore fall under the jurisdiction of the district courts. Under the provisions of the emergency orders district court judges can refer bankruptcy matters to the bankruptcy judges, who now function as masters, submitting their findings to the district court judges. The emergency orders also specify that a litigant can move to have a portion of the case, or the entire matter, heard by the district court.

Continued on page 11.

Grade changes - again

By Kate Santelmann

Grade conversion. The issue has been under discussion at William Mitchell for a number of years. Last year the Mitchell faculty voted to switch from a 31 point scale (60-91) to the more widely used 13 point scale (0.0-4.0). Critics of the 31 point scale system observe that it is both difficult to understand and unfair. Unfair because it places a greater weight on the low grades.

Theoretically, a student receiving an "A-" and a "C-", assuming the grades are not for the same number of credits, should have a "B-" average. This is not the result under Mitchell's current system. A student who receives an 86 ("A-") and a 71 ("C-") ends up with an average of 78.5 ("C plus") -- the result of a system which assigns a larger span to the "C" range than to any other grade category.

Converting to the 4.0 grading system will eliminate the skewed result illustrated above as each grade is assigned equal weight. But the process of change has been less than trouble free. Many students voiced their concern that conversion of each individual grade would result in numerous changes in class rank. To prevent such changes the Grade Conversion Committee, chaired by Prof. John Sonsteng, resolved that only a student's average grade would be converted. Thus, conversion will not retroactively cure the ills of the 31 point system, but only eliminate the "skewed effect" in the future.

The Committee also noted that although the effect on a student's transcript might be confusing to a prospective employer it is, nonetheless, necessary to change the grading system for all students at one time. With both day and night students attending Mitchell, class years necessarily overlap. Thus, if the 4.0 system were to be implemented with an incoming class, by the second year professors would be faced with the possibility of devising two grading systems, one for the students on the 4.0 scale, and another for the students who remain on the 60-91 point scale. In order to prevent such a situation and despite the confusing effect on transcripts, the entire school will be converted to the 4.0 scale at one time.

If all goes as planned the conversion formula (see box) will be adopted this term, and the new system will go into effect immediately.

NUMERALS ASSIGNED TO LETTER GRADES UNDER THE NEW 4.0 SCALE

Letter Grade	4.0 Scale
A	4.0
A-	3.6
B plus	3.3
B	3.0
B-	2.6
C plus	2.3
C	2.0
C-	1.6
D plus	1.3
D	1.0
D-	0.6
F plus	0.3
F	0.0

SBA to publish evaluations

By Margie Bodas

Numerical data from the new faculty evaluation forms will be published this semester through a cooperative effort by the Student Bar Association and the Minnesota Public Interest Research Group (MPIRG). The SBA will supply money and elbow grease while MPIRG adds its expertise.

The faculty development committee voted to allow the publication at its January meeting. The vote had been postponed since late last year.

"I think the symbolism of this is important," SBA President Deb Kraus said. "I'm very happy with the decision because it shows the faculty has faith in the students. A lot of credit goes to the students on the faculty committees. The faculty has seen a different perspective this year with these students on the committees. The image of the students has changed. It (voting to allow publication) was a hard thing to do, but also a responsible thing to do.'

Kraus said that the faculty development committee had been evenly divided on the issue. There was concern expressed over bad experiences and bad evaluations in the past. The faculty development committee was particularly worried about the professional quality of the released material and about what The Opinion would do with the results, Kraus said.

"Once they see how it goes, I think everyone will feel better," she said. "I can't foresee much trouble. No one is out to smear someone's career. It will be a serious document for a serious purpose."

Only the numerical data will be published. All data will be released along with information on what percent of the students registered for the class actually filled out the evaluation form and all results compiled from less than two-thirds of those registered will be specially marked.

Much of the data has already been tabulated but will not be accessible until February 10 when all faculty members are required to turn in fall semester grades.

The issue first arose after the faculty development committee proposed the new faculty evaluation forms. To insure fairness, the committee asked the SBA to hand out and collect the forms. Faculty members could not see the forms until the grades were out.

"We said we would do that if we could have access to the data in some form for publication," Kraus said. "We didn't want to be used as cheap secretarial help, although we did help save money and keep it on the up-and-up."

After the initial concern by the faculty development committee as to what the SBA would do with the data, Kraus contacted Larry McDonough at MPIRG for its support.

"The SBA could only release raw data. MPIRG agreed to help out the results... to lend their expertise. MPIRG has a trusted, respected reputation," Krause said. "The publication will be professional and accurate. I think it's a nice compromise."

Rule 6 would protect juveniles

By Jeanne Anderson

A new rule proposed for the Minnesota Supreme Court would require that before a juvenile is questioned about an alleged delinquency or petty criminal matter, he must be advised of his Miranda rights in the presence of his parent or guardian. Proposed Rule 6 would require this procedure be followed when questioning is done by a police officer, probation officer, parole officer of school staff personnel who carry the weight and authority of the state.

The proposed rule would protect a juvenile's constitutional rights against self-incrimination and right to counsel, and ensure that he is fully informed of his rights. This procedure would not be required, but statements made by the juvenile could not be used in court without it.

A parent or responsible adult would be present to ensure that the juvenile understands his rights and is not coerced into waiving them. A juvenile could waive his Miranda rights under the proposed rule, provided that the waiver be in writing and signed by both the juvenile and his parent or guardian.

Mediation Center: An alternative for some

By Lea De Souza

An eviction notice was served on a tenant by the landlord, who claimed the eviction was necessary because the tenant was not maintaining the apartment. The tenant called for legal assistance and was referred to The Mediation Center. The mediation process began. A volunteer mediator contacted the landlord who agreed to stay the eviction notice and attend a mediation session with the tenant. At the session, the mediator first had to reduce the tension that had developed between the two parties.

To relieve the tension he established a flow of communication and mitigated the adversarial posture of the parties. After the tenant denied allegations made by the landlord about the upkeep, or rather the lack of upkeep, of the apartment, some discussion took place. The mediator then suggested that a possible solution would be for the tenant to allow the landlord to inspect the premises on a periodic basis. Both parties agreed and details regarding notice and frequency of inspection were worked out. The landlord and tenant signed a written agreement and parted without animosity. The mediation session took about two and a half hours to complete. This was one of the first cases mediated.

Photo by Phil Goldman

John Wolf, director of the mediation center

Mediation is a method of resolving disputes through a problem solving mode rather than an adversarial mode. Parties involved in a dispute meet with a neutral person, a mediator, who attempts to help the parties focus on the issues requiring attention, identify alternative solutions, and promote effective communication. Mediation is a discussion process rather than a formal procedure. It is a completely voluntary process, and when agreement is not possible the parties can still take their dispute to court.

In his State of the Judiciary Message in January, 1982, Chief Justice Burger mentioned the need for use of alternative methods of resolving disputes:

The obligation of our profession is, or has long been thought to be, to serve as healers of human conflicts. To fulfill our traditional obligation means that we should provide mechanisms that can produce an acceptable result in the shortest possible time, with the least possible expense, and with a minimum of stress on the participants. That is what justice is all about.

***

We need to consider moving some cases from the adversary system to administrative process, like workmen's compensation, or to mediation, concilliation, and especially arbitration.

The Hennepin County Bar Association's response has been to establish the Mediation Center for Dispute Resolution. Located at 430 Marquette Ave., Mpls. The Mediation Center was incorporated in December, 1981, and functions as a non-profit organization. The Center focuses on two projects. The first objective is to provide alternative methods of resolving disputes for people who cannot afford to pay a lawyer. (There is a sliding fee scale for those above poverty level. The Mediation Center uses the same income guide as the Legal Aid Society). The second objective of the Mediation Center is to provide mediation as an alternative for cases involving youthful offenders.

Funds for The Center are provided by the Minnesota State Bar Foundation and the Hennepin County Bar Foundation. A grant from the State of Minnesota administered by the Supreme Court Judicial Planning Committee provided funds for the Juvenile Mediation Project. In addition the Northwest Area Foundation and the Bush Foundation have made significant grants to support the operations of the Mediation Center through June, 1985.

The Center gets most of its cases through referrals by the Hennepin County, Ramsey County Legal Aid Societies, and by the police. Referrals have been accepted since June of last year. Although the number of cases actually mediated has been small, John H. Wolf, mediator and Executive Director of the Mediation Center, is not discouraged. From June through December of last year there have been 150 inquiries made to the Center, and fifteen cases mediated. However, there is a steady progression demonstrated by the number of mediated cases increasing by 25% on a monthly basis.

Cases that are mediated fall into three categories. The first is the interpersonal dispute in which the significant factor involves the personal relations of the parties, e.g. a dispute between neighbors about a loud stereo. The second category is legal disputes where property rights are involved. The third category is the public issue dispute where a number of individuals are affected. A case can involve any or all of these categories. The most common disputes that are mediated at the Mediation Center are: disputes between landlord and tenant; disputes between neighbors; disputes between businesses and customers; disputes between employer and employee; and civil rights disputes.

The mediation procedure usually begins with a referral to the Center. When the client calls the mediation process is explained and brochures are sent to the prospective client. If mediation is chosen, the mediator then contacts the other party and explains the procedure. The response from the opposing party is not usually good. Wolf said that the most difficult and tenuous step in the whole process of mediation is getting the opposing party to come in and participate, even though there is no risk involved.

If they agree to participate, a meeting is set up at which both parties and the mediator are present, and discussion about the dispute begins. The amount of time that it takes to settle the dispute depends not only on what the dispute itself entails, but how cooperative the parties are. For relatively small cases, two hours

Continued on page 10.

Juveniles participate in mediation program

By Lea De Souza

One of the projects operated by the Mediation Center is the Juvenile Offender Mediation Program which is a court diversion program for first-time offenders.

Photo by Phil Goldman

Joline Gitis

Its aim is to promote community participation in juvenile problems and to encourage youths to take responsibility for their offending behavior. Hennepin County Juvenile Ccurt Judge Allen Oliesky has been in on the planning of the Juvenile Offender Mediation Program from the start and has given much support to the program. Joline Gitis, Administrator of the Juvenile Offender Mediation Program and Coordinator of the community mediation programs, along with Wolf have met with Oliesky periodically to discuss the program and exchange ideas.

The pilot project is located in St. Louis Park. Mediators include 17 residents of the west suburban area trained by the American Arbitration Association. All are volunteers. Case referrals are accepted from the St. Louis Park Police Department, the St. Louis Park schools, social service agencies and self referrals. The majority of the referrals have come from the police department.

The mediation takes place in two separate sessions when a juvenile is involved. One session involves the juvenile, his family and the mediator, the other involving the victim, the juvenile, his parents, and the mediator. The program seems to be a success. The Quarterly Report to the Judicial Planning Committee of the Minnesota Supreme Court for a period ending in December 31, 1982 reported that out of 17 juveniles referred to the program, 15 completed mediation successfuly. (see accompanying chart).

Although those involved with the program are disappointed with the low number of referrals received, the program has been expanded to three other suburbs: Minnetonka, Edina and Golden Valley. Referral arrangements have been established with police departments in Golden Valley, Minnetonka, Eden Prairie and with the Hennepin County Juvenile Court Intake. In addition, a cooperative agreement has been reached with Storefront/ Youth Action (youth diversion serving Bloomington, Richfield, Edina and Eden Prairie) with Storefront/Youth Action providing mediation services and training and technical assistance provided by the Mediation Center.

OFFENSE	AGE OF-RESPONDENT	OUTCOME
Property Damage	14	Successful Mediation
Truancy	16	Respondent Refused to Mediate
Theft	17	Successful Mediation
Shoplifting	13	Successful Mediation
Shoplifting	15	Successful Mediation
Property Damage	13	Successful Mediation
Theft	17	Successful Mediation
Vandalism	15	Settled Prior to Mediation
Theft	17	Successful Mediation
Theft	14	Successful Mediation
Theft	17	Successful Mediation
Shoplifting	13	Successful Mediation
Shoplifting	16	Successful Mediation
Shoplifting	13	Successful Mediation
Absenting (runaway)	17	Successful Mediation
Property Damage	17	Successful Mediation
Property Damage	17	Successful Mediation

Mitchell still dedicated

Administrative goal to maintain flexibility

By Steve Patrow

"Tomorrow's leaders are in law school tonight." That motto indicates the commitment William Mitchell College of Law has pursued for 82 years -- providing legal education for people who cannot attend a day school.

But in recent years, the college has also offered afternoon classes in conjunction with the traditional night sections. Some alumni and evening students have voiced concern over the establishment of the day program, saying that the school has sold out and has turned away from its tradition and reputation as the "working person's law school."

"I don't know why we have to have a day section," said a second year evening student who did not wish to have her comments attributed. "There are two other days schools just in the Twin Cities, but there was only one night school. We should provide the special services needed by the working students and let those other schools take care of the day students."

That complaint is just one of many concerning the day section at Mitchell. However, college Dean Geoffrey Peters said that the college has no intention of shifting its program emphasis from an evening to a day schedule.

"Over 75 percent of the students are evening students," Peters said. "We have no intention of changing to a more full-time, day-oriented school. The college is committed to maintaining its evening program."

The college's Board of Trustees supports that position. An amended school mission statement adopted by the board at last year's Dec. 7 meeting stated that the college is committed to "individuals who want to pursue a legal education, but are precluded because of the hours or other restrictions of typical law schools."

That commitment is one of the reasons the day sections were added to the curriculum, Peters said. He said that the day section is not a normal day section since it does not begin until 12:30 p.m.

The interest shown in the day section proves that there was a need for that alternative to the night program, Peters said. Fifty percent of first year students attend the day sections, but that percentage drops to near 30 percent the second year. The third year has no day section. Peters said the reason for the decrease of students in the day section the second year is that many students who were unemployed during their first year in school find employment in legal or other fields after their first year of training. He said it is easy for students to switch sections since both the day and night sections offer the same quality of education, another indication that the school concentrates on its evening program by promoting students to get out and work during the day and finish their education at night.

"A student can switch sections anytime," Peters said. "That's one of the differences between this college and the dual division colleges (schools with both day and night sections). We don't want to be called a dual division school; we admit the applicant to the school first and then ask the student what section he or she wants to be in. The evening students share the same instructors and classes with the day students, unlike the dual division schools which have different instructors for each section.

"There is no difference in qualifications between the night and day student, and there is no difference in the legal education those students receive."

Peters said that the structure of the education program itself shows that the night sections are the primary emphasis of the school's law program.

"There are no elective courses offered in the full-time (day) sections that are not offered at least once in the part-time sections," Peters said. "But dozens of elected courses are offered to part-time and not full-time students in the second year. If we were changing our emphasis from the night to the day program, this would be just the opposite.

"Another thing is that there's no third year full-time section. We want the student to get out and work in the legal world while he or she attends school. You can't get through this school on a full-time day program."

Ronald Hachey, alumni director for William Mitchell, said that the flexible education program the college offers is the tradition Mitchell continues to follow. He said that the critics who think the school is selling out would change their minds if they could see the school and evaluate its program.

"We're still the working person's college," Hachey said.

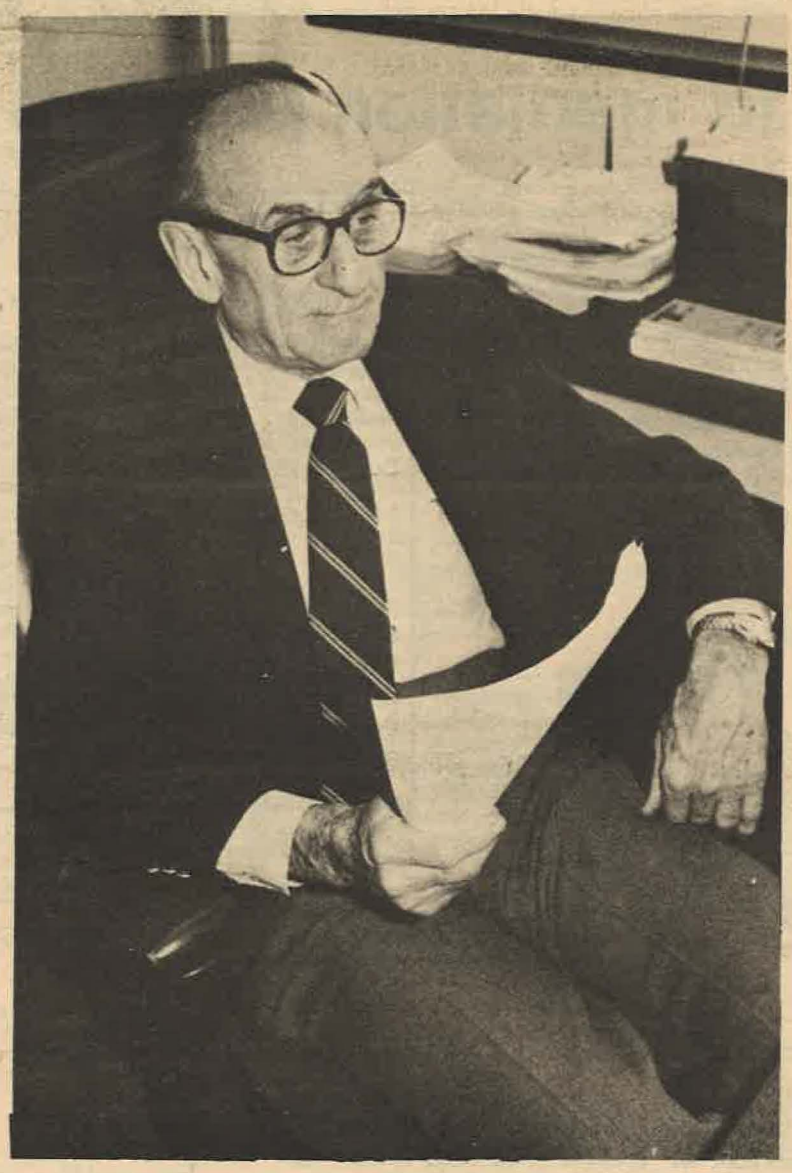

Photo by Steve Patrow

Alumni Director Judge Ronald Hachey

'..[C]hange usually creates some criticism.'

"There's a lot of misunderstanding (among the alumni) about the new program, but it's a brand new program and change usually creates some criticism.

"The day section was implemented as an experiment. It was well received by students and it has worked well as part of our flexible education program. The day program allows us to use our facilities to the utmost and to alleviate crowded conditions at the school, but you can be sure this school is primarily a night school."

Hachey said he has been traveling throughout the state with that message and to invite alumni to the campus so that can evaluate the education program themselves. He said that once former students understand that the school has not abandoned its commitment to the working student, they are ready to support the college.

to working students

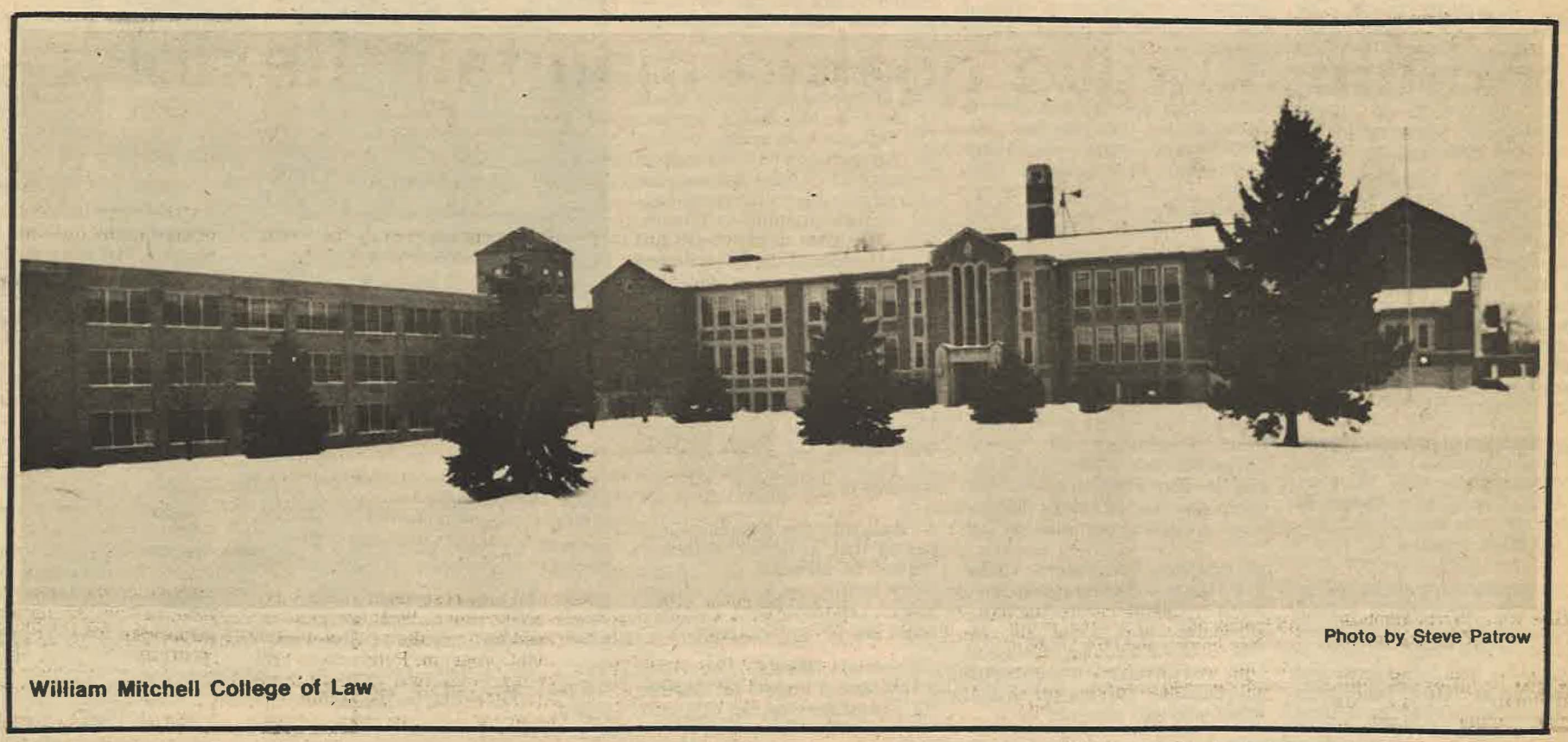

Photo by Steve Patrow

William Mitchell College of Law

That seems to be true considering that the recent Phone-a-thon fundraising drive raised nearly $50,000 in donation pledges this year, Hachey said.

Both Hachey and Peters said that complaints within the school between the day and night students also results from a misunderstanding -- each student believes the other student has the education advantage.

Peters said that the day and night sections both have advantages and disadvantages. He said that the day section has to take more credit hours than the night section but has more time to study: the night student takes less credits but work and family obligations dominate non-school hours. Peters said what is important is that both sections are offered the same classes and instructors. he said the four year program offers the same education as the 2½ year program.

"It's impossible to tell the students apart," Peters said. "They have the same instructors, same classes. I defy you to walk into any third or fourth year section or look at any grade-point-average and tell me what students have been day or night students."

'It's impossible to tell the students apart.'

Second year evening student Linda Bogut said that there is actually little resentment in her section for the day section and that she sees no indication of resentment from the day students toward evening students.

"I don't think there's a problem," Bogut said. "The different programs just give a student a choice. We get the same instructors as the day students and the same kind of education. I know of a few people in our section (4:30 p.m. section) who get bumped to the 6:30 section, but I don't know why."

Hachev said that neither dav nor night students should feel disadvantaged

"There was a feeling among the evening students that day students had an advantage," Hachey said. "There's no way a day student has a scholastic edge over the night student; they are admitted under the same admissions criteria, then they benefit from the same legal education. Sure, the day students who usually don't work have more time to study, but should we condemn them for that? I don't think that's reasonable."

Speculation that the day program was implemented to bring in more money for the college is not accurate, Peters said. He said the day program provides no real economic benefit for the college except that the school facility is used more efficiently. The student population has not increased with the addition of the day sections, and the nigher tuition rate for the full-time student is balanced out by the fact that most day students attend school and pay for their education for three years, while the night student must attend four years.

"The reason for the program has nothing to do with profit for the school, it's just to provide an opportunity to the student with special needs," Peters said.

"Also, it we didn't have a day section, the crowding situation would be much worse."

Peters said the current day and night program has worked well for both the school and the students. He said he would like to see the program continue but that the threat of the withdrawal of federal subsidies for graduate and profession school student loans endangers the day program. He said students who used to rely on loans to attend school will have to work or not attend law school if federal support ends. He said the day section would be the first to go if there was less demand for a legal education.

Photo courtesy of the Publications Dept.

Dean Goeffrey Peters

On the Cover

William Mitchell College of Law

Photo by Jeanne Anderson

Black Hills indians challenge government

By Jeanne Anderson

Their people had lived in this place for hundreds of years. And now they seek permission from the U.S. Forest Service to use the land for an 800 acre educational and cultural complex. They call it the Yellow Thunder Camp.

They are members of the native American group, the Dakota American Indian Movement (AIM), and are in the midst of a federal lawsuit over a dispute with the Forest Service in South Dakota according to Larry Levanthal, a Minneapolis attorney for the Dakota AIM.

The Sioux Indians were granted the Black Hills of South Dakota in the Fort Laramie Treaty of 1868. Subsequently the U.S. government through Congress took back the land when gold and other minerals were discovered in the Black Hills. In 1980 the U.S. Supreme Court upheld a lower court award of over $105 million in damages to the Sioux tribes, which is still unpaid.

But the issue is not over title to the land, Levanthal said. "The issue is use of the land. The Fort Laramie Treaty is a historical reason why the special use permit should be granted."

The dispute started with the Indian group requesting a special use permit from the U.S. Forest Service which was denied in August 1981. The camp requested the permit to build 83 permanent structures in a valley by Victoria Lake in the Black Hills National Forest. The government told the campers to leave.

In September of 1981 a government imposed eviction deadline passed and the people of the Yellow Thunder camp remained. The U.S. government filed an eviction lawsuit and the Dakota AIM responded with its own lawsuit, alleging illegal discrimination in denial of the permit.

The Forest Service says it denied the special use permit because of the adverse environmental impact of having permanent structures in the forest. Levanthal said the application was denied because of racial prejudice. "The application was proper in all respects," he said in a recent interview with The Opinion. "Dakota AIM sought to have the permit reviewed which is normal part of the regulations. The Service denied them the review."

In effect the camp suit seeks injunction to stop the government from terminating the camp, Levanthal contended. Part of the suit involves allegations that the camp was singled out for harassment including surveillance by government helicopters. "The F.B.I. claims that no agents have made flight observations," Levanthal said. "But the affidavit of a Forest Service agent who was involved in helicopter surveillance names an F.B.I. agent who was present."

The government also claims that the Yellow Thunder camp is harboring fugitives. In July of last year a shooting incident near the camp resulted in the death of a Rapid City resident. An alleged camp member was later charged with the murder. Levanthal said, "The government has every right to go in and get fugitives as much as they have a right to do so anywhere else. That's not the issue."

The trial has been delayed pending an appeal in the 8th Circuit by the U.S. Marshall's Service. The Dakota AIM seeks to have the government pay the camps witness costs. Under the doctrine of *in forma paupris* indigents cannot be denied rights to litigate. U.S. District Judge Donald O'Brien ordered the government to pay for 35 witnesses the camp lawyers want to call. However, the government refused to comply and has appealed claiming that Congress never authorized the U.S. Marshalls Service to make witness payments in civil cases. The government witnesses have been heard, but Judge O'Brien has halted the trial pending the outcome of the appeal.

"Basically the government is saying that *in forma paupris* is limited to allowing an indigent party to file, not to pay witness costs," Levanthal said. The delay could last for several months.

The trials, he said, "Could have a substantial impact on whether the Forest Service can arbitrarily discriminate against Indians. These poeple are trying to preserve their culture." During the past 5½ years 58 special use permits have been issued to public and private groups in the Black Hills. Four applications were rejected, three of them sought by Indian groups including the Yellow Thunder Camp.

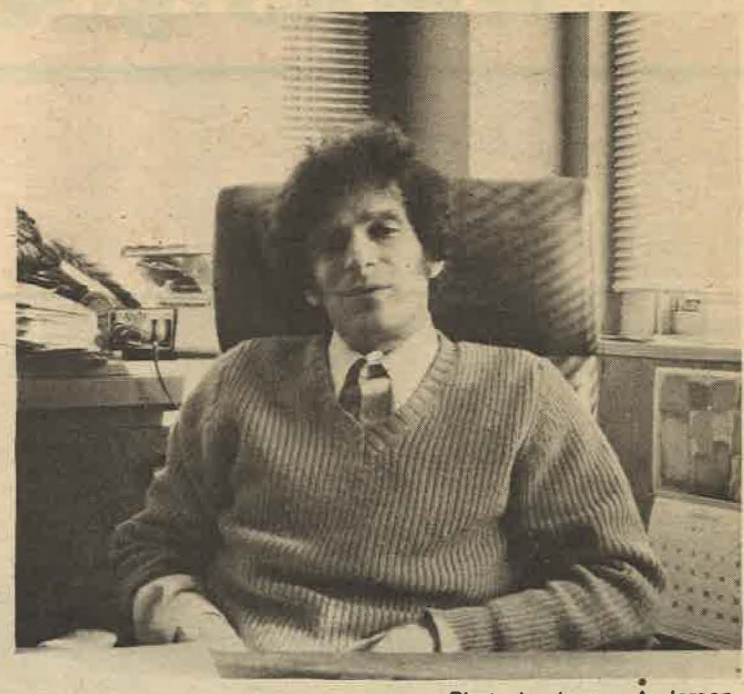

Photo by Jeanne Anderson

Dakota AIM attorney Larry Levanthal

The Black Hills are sacred to the Sioux people, Levanthal said.

"The American Indian Religious Freedom Act of 1978 requires the government to accommodate Indian religions. The real problem here is that the people who infest the Forest Service in South Dakota are biased."

The topic for this year's Client Counseling Competition is "Loss of Employment." The competition will take place Feb. 12 and 13. Twenty-six teams have entered the competition this year.

Ma: China's oldest lawyer

By Jeanne Anderson

Ma Ronjgie is a living history book. He's witnessed the reigns of Chiang Kai-shek, Mao Zedong and Premier Deng. He's the oldest lawyer in China and he's only 48 – oldest because he has practiced longer than any other lawyer. He was confined for seven years during the Cultural Revolution and in 1980 was ordered to join the defense team for the trial of China's Gang of Four.

Currently in his second year as a visiting professor at the University of Minnesota Law School, Prof. Ma has seen China's legal profession wiped out three times. When the Communists came to power in 1949 the existing legal system was abolished. Then, in 1954, a new legal profession was introduced in which the few lawyers were made government employees. New lawyers had to be educated by the new People's Republic of China. In 1957 the legal profession was virtually eliminated and again in 1966 when the Cultural Revolution began, the practice of law was prohibited.

With the onset of the Cultural Revolution in 1966 Mr. Ma was arrested by the Red Guard and imprisoned as a counterrevolutionary. The reasons included the fact that he was deemed to have come from a "bad" family. His father and two uncles were generals in the Old China army. Ma said in a recent interview with The Opinion that "the Red Guard said 'you are from a bad family so you are a bad man. It was very strange logic. They had a poem. If your father is a mouse, you are a mouse. It was a terrible thing."

Second, because he worked on criminal cases, he said "They say, 'You were a lawyer for a long time. You served for important criminal cases so you are a counterrevolutionary. You've worked very hard for criminals, not for the state."

Third, he wrote a book about some of his famous cases, which was made into a movie, but never shown to the public because the Red Guard deemed it to be a counterrevolutionary movie and considered Ma dangerous.

Far from appearing dangerous, Mr. Ma is a quiet, friendly man of medium height whose mouth curves into a soft smile as he speaks. For ten months he was held in solitary confinement under constant watch by the Red Guard. He was sent to the mountains for the next six years to do hard labor.

Prof. Ma wrote to the government in 1975 asking to be released. At that time the Gang of Four controlled China. Ma was pardoned, he said, "They said I was not a counterrevolutionary, but had made some mistakes, so I could not get a job. I worked on a farm with some freedom. I was a comrade but with mistakes." For the first time in almost seven years Mr. Ma was allowed to see his family for two days a month.

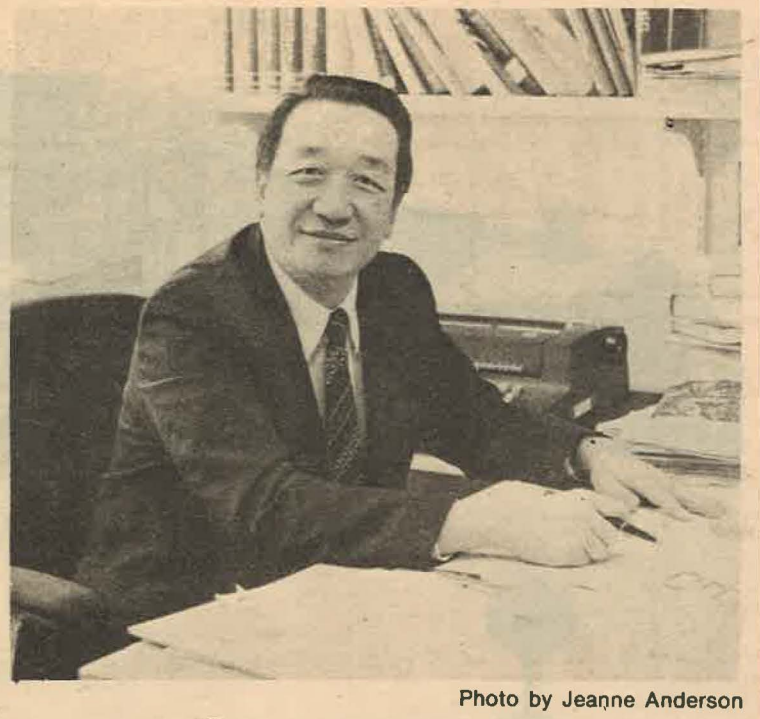

Photo by Jeanne Anderson

Gang of Four defense attorney Prof. Ma

The Gang of Four was "broken" in 1976, Ma said. "One day in 1978 an officer came and said, 'Ma you are not counterrevolutionary. You made no mistakes. You are a good man. You are a hero.' " He was allowed to choose any job he wanted and decided to do research because he wanted to improve the Chinese legal system.

Because Ma was one of the only lawyers retained by the government after 1954, one of the first law graduates in the People's Republic, and one of the most experienced lawyers in China, the Chinese government ordered him to join the defense team for the Gang of Four, blamed for wrongly accusing 100 million people during the Cultural Revolution. They were charged with persecuting to death over 34,000 people in just a few incidents. Ironically, the Gang of Four were the same people who caused Ma to spend almost seven years in prison.

Several newspapers reported that Prof. Ma was chief counsel for the Gang of Four, primarily for the defense of Mao's widow, Jiang Qing. But he declined to say what his real position was. "History will tell you", was all he said. All of the defendants have either pleaded guilty or were convicted and Jiang was sentenced to death. A two year suspension ended in late January and Jiang's sentence was commuted to life in prison.

From a Western viewpoint the trial seemed a parody of justice. The New York Times reported that many of the 35 judges on the special court were humiliated during the years of the Gang of Four; the defense had no witnesses and reportedly did not cross-examine the government's witnesses, nor did they object to the government's questions; the defense team never met with the defendants. The same report said that the trial was rehearsed and viewed on videotape by the party Politburo.

But Mr. Ma contended that the lawyers were allowed to bring witnesses and cross-examine the government's witnesses. He was reluctant to talk about the trial, except to say that, "It was a fair trial". He explained that the significance of the trial lies in the government's hope that the Chinese people view the new legal system as fair. "The Gang of Four did many bad things, killed many people so we must have judgment to punish them. After the Gang of Four we need a legal system and to run everything by law. We had to punish them by judgment by law.

"The Red Guard punished everyone, like me, without law during the Cultural Revolution. People had no confidence." Ma contended the trial was "very fair and legal. We had a lot of evidence for this case," he said. "This was a very big, very special case. We had not enough experience, but we did very well. With new lawyers and a new constitution, a lot of people are pleased because it means that the Chinese government is saying law is very important, legal system is important. It is a good beginning."

Computers aid in legal research

By Aziz Ah-San

Judge:
Counsel, now that the case has been decided in your favor, I must also congratulate you in your thorough analysis.
Counsel:
Thank you, your honor. The present analysis was made by using a computer in my legal research. Your honor I analyzed your prior opinions on the issues involved so that I could better represent my client.

The above scenario may sound farfetched to some but the present legal computer systems are capable of allowing the user to acquire such data. At present such data is available for all appellate judges. Researchers are able to access the computer and limit the data they are interested in, to let's say, a majority opinion by a certain judge on specific issues and within a limited time frame.

Presently, there are a number of computer systems that are being used to do legal research. Of the systems in use only two are commercially available; they are the WESTLAW and the LEXIS systems. William Mitchell has the WESTLAW system and it is available for use to all students and faculty doing academic legal research.

The development of the use of computers in legal research started in the late sixties. The first system to enter the commercial market was the LEXIS system, introduced in 1973. The LEXIS system was a result of a joint development effort by the Mead Corporation and the Ohio State Bar Association. Second to enter this market was the WESTLAW system in 1975. WESTLAW was developed by the West Publishing Company.

Since their introduction, both systems have had favorable acceptance in the field of legal research. They are used by law schools, practicing attorneys, and the judiciary as well as by the various governmental and non-governmental agencies. In order to provide better service to the users of the systems, the manufacturer of both the systems have been continuously expanding the capabilities of their products. This has been done, by adding more data bases to the existing systems and by expanding the scope of information in each of the existing data bases.

Which of the two systems is the better system? It depends upon the needs of the researcher. At present both systems cover the active area of law. One system may have more data bases in one area of law and nothing in another. For example LEXIS has data bases that cover French and English law, while that service is presently not available on WESTLAW. Similarly, the WESTLAW system has a data base that has the Forensic Services Directory, through which one can obtain the names and addresses of experts in almost any field.

Once you have mastered the skill of accessing the system, you need to formulate your question. It is good practice to do this prior to turning on the system, because once you have accessed a data base you are on billable time. While you are formulating your query you should also look at synonyms for each of your key words. If you are too general in your query formulation you may end up with a lot of non-applicable cases. If you are too specific, you may end up with only a few cases, but there is a good likelihood that the cases will be on point.

The main differences between the WESTLAW and the LEXIS system is in the formulation of the query and in the division of the data bases. For example in the formulation of a simply query in the WESTLAW system one may need to specify whether the second key term be in the same sentence or the same paragraph. In the LEXIS system, for the same problem the operator will have to specify within how many words the second key term should be.

Both systems allow immediate Shepardizing of any case that is on the screen. This is one feature that is definitely a time saver. Other cases in the data base can also be Shepardized.

The field of legal research using computers is in a continuous development and growth stage. It may not be farfetched to think that within our lifetime we will see new applications of the computer in the legal field, such as a microphone hooked into a computer, allowing it to record a conversation between an attorney and client. This concept could be further developed into making the computer sophisticated enough to analyze a conversation and give its "legal" opinion.

The application of computers in the field of law is unlimited. Practically anything that a human mind can conceive of in the analysis of legal data, a computer can be programmed to do. One major problem that may arise is the access to legal data bases by non-lawyers. They can access legal data bases and get "answers" to their legal questions, without even discussing it with an attorney. Would this "answer" be considered a legal opinion? Consequently, could the computer, Time magazine's "Man of the Year", be charged with the unauthorized practice of the law?

Kampf to challenge tuition tax deduction

By Kate Santelmann

The issue of Church and State is once again being brought before the Supreme Court in the case of *Van D. Mueller and June F. Noyes v. Clyde E. Allen, Jr., et al.* William Mitchell Adjunct Faculty member William Kampf is awaiting a trial date in this case which challenges the Minnesota tax deduction for primary and secondary tuition payments.

According to Kampf all parents who have paid tuition are allowed a tax deduction. Facially this appears to be constitutionally acceptable. However, when one looks at the figures the deduction seems to have a disparate impact upon parents of public school children. "Although there are no statistical records of who deducts what," said Kampf, "the figures infer that at least 80% of the raw deduction amounts are from people attending private schools. Ninety-six percent of these people are in parochial schools. In addition, there is a Minnesota state statute which prohibits charging tuition for basic education." Thus, for the most part parents with children in public schools are not able to take the deduction.

This challenge of the Minnesota tax law is based upon a 1973 Supreme Court decision which held that a New York statute which allowed a tax credit to parents of children attending nonpublic elementary or secondary schools violated the Establishment Clause. *Committee for Public Education and Religious Liberty v. Nyquist*, 413 U.S. 756, (USNY 1973).

Although the New York system provided tax credits and the Minnesota system provides for a tax deduction, Kampf believes the principles governing the case are the same. In support of this position Kampf again cites *Nyquist* where the court noted that the constitutionality "of the benefit does not turn in any event on the label we accord it." Says Kampf, "Whether you call it a credit or a deduction – it's really the same thing."

Sponsored by the American Civil Liberties Union (ACLU) and the Minnesota Civil Liberties Union (MCLU), the case has generated the interest of almost everyone involved in education. Numerous *amicus* briefs are being filed by organizations on both sides of the issue, including such prestigious organizations as the Mountain State Legal Defense Fund, the National Education Association, the Minnesota Education Association, and the School Board Association. The case is expected to be heard sometime in April, and Kampf said, "It appears that this case will be testing ground for where we are going with school funding. The public implications are much broader than the case itself."

Next Opinion Deadline March 14

Birdwing center future in doubt

By Steve Patrow

Rest and relaxation mix with law school like oil mixes with water -- you can try to blend them, but you will probably fail. The fact is, if the student has too much time to take it easy, he or she probably is not getting the work done.

But law school is not all work. Thanks to a gift by Charles and Marjorie Pihl, William Mitchell College of Law can provide a little break from law studies and classes if the student (or teacher) wants to get away.

In 1981, the Pihls donated 120 acres of land and several buildings on that land to the college; (total value: approximately $1.2 million) the college has turned the buildings into a conference center, leased some of the land for farming, and has left 20 landscaped acres as an outdoor recreation area.

Amy Lindgren, conference coordinator of the Charles and Marjorie Pihl Conference Center, also known as Birdwing, said there were several reasons for the gift from the Pihls.

"They (the Pihls) wanted to further legal education in Minnesota and the United States," Lindgren said. "If the center can get a name for itself when it is associated with the college, the college will also get publicity."

Lindgren said the Pihls first considered using the land as a retirement resort named Birdwing Farms. The land was also to be a wildlife refuge; but maintenance for Birdwing required too much effort, so they donated it to the college, Lindgren said.

Located 70 miles west of the Twin Cities near Litchfield, the conference center is situated near a lake and surrounded by woods. Birdwing seems to be an appropriate name for the area -- many species of birds live on the land during the year; there is also the wildlife refuge which shelters wild geese and swans throughout the year.

The center is used for executive retreats, company conferences, family vacations and is "popular for family reunions," Lindgren said. Two conference rooms, a large kitchen, eight large bedrooms, a dining room, sauna, whirlpool, and an outdoor heated swimming pool are just some of the luxuries the center has to offer its patrons.

Although Birdwing is advertised as a conference center, the resort also provides recreation to anyone who would rather relax than confer. The center maintains trails for hiking, jogging and cross-country skiing facilities for boating, canoeing, fishing and volleyball courts. Nearby Litchfield has downhill ski facilities, 18-hole golf course and tennis courts.

The latest recreation package offered by the center is a reduced rate for cross country skiing from Jan. to April 3. Groups who wish to use the facility must make reservations in advance, and there are only two weekends open in March. The reservation includes full use of the house and grounds.

"For a weekend the charge averages out to about $20 per person," Lindgren said. "Rather than charging per person, we charge for the use of the house. If the group is large, each persons pays less than would the person in a smaller group. Still, it's a pretty cheap weekend."

Lindgren said that the weekends at the resort are booked through August, except for the two weekends in March, but the weekdays remain "very much open."

Although the center offers much to an individual or group, it has not been getting a great amount of use by William Mitchell students.

"We've only had two or three student groups use it," Lindgren said. "We haven't advertised too much in the past and that may be one reason that people don't know about the center. We hope to increase our advertising."

How much the center has benefitted the college since it received the gift in 1981 is an unanswered question. Lindgren said the administration and Board of Directors has not decided what to do with the center and that it was made into a conference center temporarily to see how it would work. Lindgren said it is too early to tell if the center will make a profit for the school.

"It's difficult to predict," Lingren said. "It is a good advertisement for the school. We have scheduled or accommodated conferences for groups in South Dakota, Ohio, and California. But there are people who think the money could be used in a better way."

The college does not actually spend money on the upkeep of the center, said Mike Carlson, William Mitchell's Comptroller. He said however, that if the center starts to become too much of a burden on the school, it will probably be sold.

"The Board of Directors (of the college) said that as a condition of accepting the gift from Mr. and Mrs. Pihl, the college could not use any of its resources to pay for its (the center's) upkeep," Carlson said. "Right now, Birdwing is eating away at its own assets to pay for its upkeep."

Carlson said the 100 acres of farm land at the center is leased and crops from that land are sold to help finance maintenance costs at Birdwing. He also said the college helps the center by acting as a bank, lending money to the estate for maintenance but charging the estate interest on those loans which is comparable to bank interest rates. So far, the expense of maintaining the center is more than the profit earned from land leases and conference reservations Carlson said. The projected deficit is near $66,000. If that disparity continues, the only choice the college might have is to sell the conference center, he said.

"The Board said it will only keep Birdwing as long as it didn't cost the college anything," said Carlson. "I'm not saying the college is going to sell Birdwing, but that an option or remedy (for the deficit)."

Although there is an operating deficit at Birdwing, the conference center is not in any serious financial trouble, said Associate Dean Robert Oliphant. According to Oliphant the deficit lowers the value of the property, but that personal property included in the gift from the Pihls can be used to off set the deficit.

"I've sold off some personal property (for $50,000) from the estate to finance operating costs at the center," Oliphant said. "We still have an estimated $150,000 worth of personal property that we could sell. We have enough personal property to cushion the costs of the operation."

According to Oliphant, the college has other options in deciding what to do with Birdwing. He said, however, the Board of Trustees and the college want to try to use the property as intended by the Pihls, as a conference center.

"The challenge to us is to decide on whether to go forward and make it a complete conference center, which would entail some risk, or do something else with the property," said Oliphant.

The board's other options may include selling the land around the buildings and using the proceeds from the sale to pay off the $500,000 mortgage on the property, or, sell the entire property outright and use the profit for library development, tuition assistance and other school programs.

Carlson said the executive committee of the Board of Directors is considering what to do with Birdwing and will submit a recommendation to the Board at its February meeting.

Anyone may use the facility, but William Mitchell students, faculty and administration receive a ten percent discount on fees for the center's use. If you want to make reservations for Birdwing, contact Amy Lindgren at (612) 227-9171.

Photo courtesy of the Publications Dept.

Birdwing: estimated value $1.2 million

Mediation

(Continued from page 5)

is usually sufficient. An average divorce settlement takes anywhere between six and ten hours.

Wolf said that the Mediation Center has been successful "Inasmuch as there are a lot more agencies, organizations and people who are considering or planning to use mediation, but I wouldn't be honest if I didn't say that we've been disappointed with the case so load so far."

This article is first in a series of three.

Bloodmobile to visit

The St. Paul Regional Red Cross Blood Center expects to collect over 180,000 units of blood in the current year. In order to meet the need for whole blood and blood components, Red Cross must send out seven bloodmobiles five days a week, 52 weeks a year.

The bloodmobile will be visiting William Mitchell again on March 14, 1983 between 3:00 p.m. and 7:00 p.m. with the hope of getting students to donate a unit of blood each.

Red Cross Regional Blood Services relies heavily on the support of St. Paul area businesses, schools, churches and community groups to provide a consistent supply of blood to the area hospitals throughout the year.

New clinics offered

By Jeanne Anderson

Two new clinics are being offered for the first time this semester. Five students are working with an Assistant U.S. Attorney on civil and criminal cases, clinic Director Roger Haydock said. The U.S. Attorney's clinic is coordinated by second year student Jamie Foreman. Students in this clinic are involved in preparing memos on specific cases, attending depositions and criminal pre-trial hearing and may make appearances in federal courts, Haydock said. Occasional class meetings are held to discuss problems and issues and the role of the U.S. attorney. Students registered for this clinic went through an F.B.I. check and were fingerprinted, Haydock said, because of confidential government information made available to the students.

The first Public Interest Law Clinic is in progress at Mitchell, coordinated by the Minnesota Public Interest Research Group (MPIRG). MPIRG attorney Dan Lass said that the goal of the clinic is to give students a broad base of experience in developing issues, investigating and litigating. Lass said that after initial training, students will be involved in answering a landlord-tenant law hotline and trial preparation for issues MPIRG plans to litigate. Lass said that public interest law is something many students are interested in, but that there are very few general public interest groups in Minnesota. He said that the clinic was filled two hours after registration opened. Fourth year student Larry McDonough is the student coordinator.

Judge Oleisky speaks out against child abuse

By Lea DeSouza

The situation was brought to the attention of the authorities when neighbors reported muffled cries of children in the next apartment.

When the police arrived, they found no evidence of any adults. But there were two children. The four-year-old was in a cot with no pillow. But there was a pot in the cot, and it was filled with feces and urine. It was a hot summer night,and a rank odor hung over the room.

In the corner of the room was a "playpen" constructed of three pieces of plywood against the wall, with another piece over the top. In it was a 20-month-old child.

That was one of the cases described by Judge Allen Oleisky of Hennepin County District Court in a speech to physicians and other staff members of Methodist Hospital in St. Louis Park. The speech focused on the topic of child abuse and neglect.

Oleisky pointed out that reported cases of sexual and non-sexual abuse of children have risen sharply in number. In 1974, he said, about 40 cases of sexual abuse of children were reported, along with about 400 cases of non-sexual abuse. For this year, those numbers have climbed to 400 and 1,400, respectively.

In the case described by Oleisky, it was later found the four-year-old had developed as much as a normal 2½-year-old. The 20-month-old had reached the stage of a normal 7½-month-old.

Neither child was allowed outside because when the four-year-old was much younger she got sunburnt on one occasion. The children had no contact with other humans with the exception of their parents, the sound of the television in the other room, and an occasional doctor. (The parents infrequently took the children to doctors, and never returned to the same one. Oleisky said that this was usually the pattern with parents of abused and/or neglected children.)

The two children are now with foster parents, but the natural parents are still attempting to get their children back. They believe that they have done nothing wrong in the raising of their children.

At the conclusion of the lecture, Oleisky made a plea to the physicians to report any evidence or suspicion of child abuse that they detect. He told them that reporting these cases does not expose them to malpractice suits. In addition, they are immune from suits against breaking the patient-doctor confidentiality as long as the report was made in good faith.

Courts (continued from page 4)

Those who practice before the bankruptcy courts are not happy with this uneasy judicial compromise, but recognize that it was necessary to keep the courts operating. The ultimate resolution of the problem will depend on legislative action.

In his dissenting opinion Chief Justice Warren Burger suggested that the problems arising from the Court's judgment could be resolved "simply by providing that ancillary common law actions... be routed to the United States District Court of which the bankruptcy judges or to formalize the master system currently being used in the district courts." Hearings on the House Bill are scheduled to begin this month and it is expected that the Senate will seek to enact a compromise similar to the one proposed in October. in the interim those charged with administering the nation's bankruptcy law can only wait and hope that their emergency procedures won't be challenged before Congress finds its solution.

Women's Law Caucus rejuvenated

By Kate Santelmann

The Women's Law Caucus of William Mitchell is in a year of recovery. After two years of virtual inactivity, the Caucus has been reorganized and revitalized. Co-chaired by second-year day student Liz Pierce and Pam Frasch, the Caucus has formed a number of committees. A Speakers Committee organized a debate on abortion last November. The turnout was good, and the Committee plans another such debate on either sexual abuse or sexual harassment for sometime this term.

According to Secretary Carrie Marsh, the Caucus has organized a number of committees. In addition to the Speakers Committee, there is a Network Committee, a Fundraising Committee, and a Newsletter Committee. In addition, plans are being made to form a support group for all interested students.

The Network Committee keeps in contact with various women's organizations from around the Twin Cities. It is planning, in conjunction with the University and Hamline women's groups, a presentation on minority women in law.

The Fundraising Committee, headed by Marsh, has planned a benefit dance for the Child Care Center on February 23rd. The dance is to be held at the "Take-5 Bar" in Minneapolis. Tickets are available both through the Child Care Center and the bar.

Future plans for the Caucus include sending a representative to Washington, D.C. for the "Women in the Law Conference" in April, and a major membership drive over the summer. Notices of additional upcoming events are posed on the bulletin board next to the library, and says Marsh "The Caucus urges all interested students to get involved."

Mitchell attempts major fundraising

By Kate Santelmann

The figures are impressive. 4500 alumni contacted and over $40,000 raised. By anyone's standards William Mitchell's Phone-a-thon was a success. According to Alumni Director Judge Ronald Hachey, over 100 people participated on this major effort to contact all William Mitchell graduates. The phoners very nearly succeeded -- there remains only about 700 alumni who were not able to be reached. Plans are being made to contact these people sometime in March. In conjunction with this attempt Hachey is planning a spring campaign to the west coast where he will visit the southwestern United States, especially Phoenix and Tucson, meeting with alumni in groups when possible, and individually when not.

The Phone-a-thon was one of Mitchell's first attempts at major fundraising. On April 8, 1983 the efforts will continue with a "Celebrity Roast" honoring Judge Hachey. Organized by Mitchell's Development Director Dian Eversole, the event is to be held at the Radisson South. Proceeds will go to a short-term emergency student loan fund, and organizers hope to raise $50,000. Dedication of the Warren E. Burger Memorial Trophy Case is tentatively set to coincide with the "Celebrity Roast," but is dependent upon the Chief Justice's schedule.

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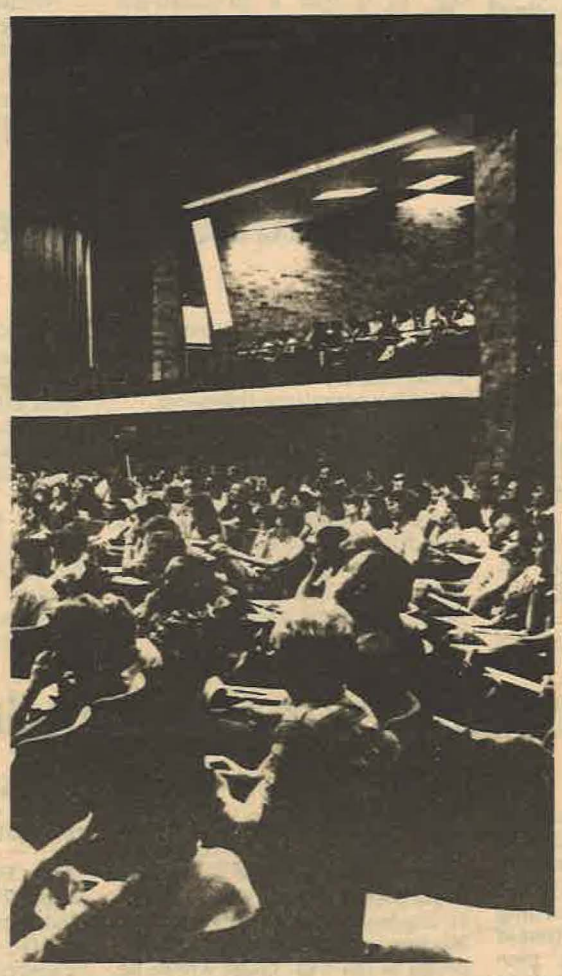

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